

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

DANIEL J. COLVIN and CENA M-M
TECCA,

Plaintiffs,

vs.

LAKEVIEW LOAN SERVICING,
LLC,

Defendant.

CV 20-40-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on January 7, 2021. (Doc. 11.) The Magistrate recommended that Plaintiffs' action be dismissed for failure to state a claim. (*Id.* at 3).

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendations. Federal Rule of Civil Procedure 6(d) extends that period by 3 days when a party is served by mail. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and

firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

After reviewing the Findings and Recommendations, this Court does not find that the Magistrate committed clear error. On April 13, 2020, Defendant Lakeview Loan Servicing filed a motion to dismiss. Plaintiffs failed to respond to that motion. Judge Cavan granted Defendant’s motion but provided Plaintiffs an opportunity to file an amended complaint on or before December 7, 2020. Plaintiffs again failed to respond or file an amended complaint. Judge Cavan found the original complaint insufficient to state a claim upon which relief could be granted because the complaint merely alleged the legal claims sought without including factual grounds to support those claims. Judge Cavan did not clearly err in this finding. As such,

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 11) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Plaintiffs’ action is DISMISSED for failure to state a claim upon which relief could be granted. Any appeal of this disposition will not be taken in good faith as the complaint is too sparse to support a claim.

The Clerk of Court is directed to enter, by separate document, a judgment in favor of Defendant Lakeview Loan Servicing and against Plaintiffs Colvin and Tecca.

DATED this 25th day of January, 2021.



SUSAN P. WATTERS
United States District Judge